

Date

Mr. John Jeffery Simon
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**Re: Louisiana Board of Ethics Docket No. 2021-975
Advisory Opinion**

Dear Mr. Simon:

The Louisiana Board of Ethics ("Board"), at its January 7, 2022 meeting, considered your request for an advisory opinion regarding whether the Code of Governmental Ethics ("Code") would require Mayor Pro Tem Ricky Gonsoulin to recuse himself from discussing and voting on the annexation of an 11-acre tract of land which is currently leased to his family business, Gonsoulin Farms, L.L.C. ("Gonsoulin Farms").

FACTS PROVIDED

You provided the following facts:

1. Ricky Gonsoulin is the New Iberia City Councilman elected at large and serves as Mayor Pro Tem. He is a voting member of the City Council.
2. Mr. Gonsoulin, or members of his immediate family, own at least 45% of Gonsoulin Farms.
3. Gonsoulin Farms is the lessee under a sugar cane lease of property that includes a tract of land of approximately 11 acres. The 11-acre tract is located in Iberia Parish outside of the corporate limits of the City of New Iberia.
4. The owners of the 11-acre tract have asked the City to annex the 11-acre tract.
5. The owners of the 11-acre tract have entered into a contract to sell the 11-acre tract for commercial development and, the City has been told that sale of the property is contingent on annexation.
6. The prospective purchaser has asked the City to make certain infrastructure improvements to facilitate the development.
7. Annexation of the 11-acre tract and installation of infrastructure by the City will require action by the City and a vote by the City Council.
8. Annexation will not terminate the sugar cane lease, but if the property is sold, the prospective purchaser will have the option to terminate the lease.
9. The landowner's sugar cane lease with Gonsoulin Farms provides that, if the lease is terminated, Gonsoulin Farms is to be paid the value of sugar cane roots, stubble and other investment in the property.
10. The prospective purchaser has asked that the property be annexed with Zoning Classification C-4 and while sugar cane farming is not a permitted use under Zoning

Classification C-4, the City's Zoning Ordinance would allow the farm use to continue as a nonconforming use.

11. Action by the City and the votes of the City Council would not directly terminate the sugar cane lease to Gonsoulin Farms or prohibit its farming activities, but the parties who would have the right to terminate the lease have requested annexation and installation of infrastructure, which will require action by the City and City Council.
12. If the anticipated closing occurs, the likely result will be that the buyer and/or seller will terminate the Gonsoulin Farms sugar cane lease on the 11-acre tract.

LAW

La. R.S. 42:1112A prohibits a public servant from participating in a transaction involving his governmental entity in which he has a substantial economic interest.

La. R.S. 42:1112B(1) provides no public servant shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any member of his immediate family has a substantial economic interest.

La. R.S. 42:1120 provides that any elected official, who is required to vote on a matter in violation of Section 1112 of the Code, must recuse himself from voting. The elected official is not prohibited from participating in discussion and debate concerning the matter provided that he discloses on the record the nature of the conflict or potential conflict prior to his participation in the discussion or debate.

La. R.S. 42:1102(21) defines "substantial economic interest" as an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except: (a) the interest that the public servant has in his position, office, rank, salary, per diem, or other matter arising solely from his public employment or office; (b) the interest that an elected official who is elected to a house, body, or authority has in a position or office of such house, body, or authority which is required to be filled by a member of such house, body, or authority by law, legislative rule, or home rule charter, (c) the interest that a person has as a member of the general public.

La. R.S. 42:1102(23) defines "transaction involving the governmental entity" as any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the public servant or former public servant of the governmental entity in question knows or should know:

- (a) Is, or will be, the subject of action by the governmental entity.
- (b) Is one to which the governmental entity is or will be a party.
- (c) Is one in which the governmental entity has a direct interest. A transaction involving the agency of a governmental entity shall have the same meaning with respect to the agency.

ANALYSIS

Under La. R.S. 42:1120 of the Code, an elected official, such as Mr. Gonsoulin, would only be required to abstain from voting on a matter if his vote results in a violation of La. R.S. 42:1112. Under the facts in this case, Mr. Gonsoulin appears to have a substantial economic interest in the annexation of the 11-acre tract of land. La. R.S. 42:1102(21) of the Code defines “substantial economic interest” to be an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons. Since Mr. Gonsoulin has an interest in the annexation which is greater than that of a member of the general public, La. R.S. 42:1120 of the Code prohibits him from voting on the matter.

CONCLUSION

The Board concluded, and instructed me to inform you, that the Code of Governmental Ethics allows Ricky Gonsoulin to participate in the discussion of the annexation, provided he discloses on the record the nature of his conflict prior to his participation in the discussion. However, he may not vote on the City’s annexation of the 11-acre tract of land leased to Gonsoulin Farms, L.L.C.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Code of Governmental Ethics. The Louisiana Board of Ethics issues no opinion as to past conduct or as to laws other than the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Acts, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600

Sincerely,

LOUISIANA BOARD OF ETHICS

Suzanne Quinlan Mooney
For the Board